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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,694	07/28/2000	Alan N. Houghton	MSKP026US2	3599

21121 7590 04/22/2002
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EXAMINER

HARRIS, ALANA M

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 04/22/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,694

Applicant(s)

HOUGHTON ET AL.

Examiner

Alana M. Harris, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31, 33-37 and 40 is/are pending in the application.
- 4a) Of the above claim(s) 34-37 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

1. Claims 31, 33-37 and 40 are pending.

Claims 1-30, 32, 38 and 39 have been cancelled.

Claims 34-37 and 40, drawn to non-elected inventions are withdrawn from examination.

Claims 31 and 33 are examined on the merits.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawn Rejection

Claim Rejections - 35 USC § 102

3. The rejection of claims 31 and 33 under 35 U.S.C. 102(b) as being anticipated by Houghton et al. (Annals New York Academy of Sciences 690:59-38, August 12, 1993) is withdrawn in light the amendment to claim 31. Claim 29 has been cancelled.

Maintained Rejection

Claim Rejections - 35 USC § 103

4. The rejection of claims 31 and 33 under 35 U.S.C. 103(a) as being unpatentable over Houghton et al. (Annals New York Academy of Sciences 690:59-38, August 12,

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1993), in view of Ausubel et al. (Referenced on IDS, page 2, Paper number 4) is maintained. Claims 29, 30 and 32 have been cancelled.

Applicants argue that "[t]he Examiner has not bridged the gap between ...teaches of expression of a mammalian protein, in a mammalian cell line and the claimed insect cell[s] lines." Furthermore, Applicants assert that the Examiner has not established or argued specifics regarding the insect cell lines and that "the Examiner has merely found ...isolated elements of the claimed invention..." and accordingly set forth an insufficient 35 USC § 103 rejection. This is found unpersuasive.

Applicants' arguments are not commensurate within the scope of the claims. As written the claims do not require the production of a functional antigen suitable for studying the regulation, transport and processing of melanosomal proteins. Moreover, the claims do not require that the insect cells produce melanosomal proteins to implement the said studies. The Houghton reference provides the basis that gp75 can be cloned. And Ausubel sets forth that the baculoviral expression system transfected within insect cells yields a significant amount of the protein of interest, which is capable of being cloned, screened, isolated and purified. One of ordinary skill in the art would readily recognize that there would^{be} a reasonable expectation of success by teachings in Ausubel of the great likelihood of obtaining biologically active products from such methods and host cells due to the baculovirus' efficient promoter strategy and the high infection rate of insect host cells. In addition, one of ordinary skill in the art would have been motivated to do so with a reasonable expectation of success because it is art

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known that sources of altered antigen can induce effective immune responses, such as tumor rejection.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, Ph.D. whose telephone number is (703) 306-5880. The examiner can normally be reached on 6:30 am to 4:00 pm, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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308-4315 for regular communications and (703) 308-4315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Alana M. Harris, Ph.D.
April 12, 2002



ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600